

KAPLAN HECKER & FINK LLP

Plaintiffs shall promptly submit the transcript of ACN's Rule 30(b)(6) witness deposition for the Court's in camera review. The Court will email counsel with instructions for submitting the transcript through the Court's file-share system.

SO ORDERED 9/22/2022


SARAH L. CAVE
United States Magistrate Judge

BY ECF

The Honorable Sarah L. Cave
United States District Court for the Southern District of New York
500 Pearl Street
New York, New York 10007

Re: Catherine McKoy, et al. v. The Trump Corporation, et al., 18-cv-09936 (LGS) (SLC)
Request for Conference

Dear Judge Cave:

We write pursuant to Rule II.C.2 of your Honor's Individual Rules to address a dispute with Defendants concerning potential pre-trial depositions of non-party trial witnesses not previously disclosed or deposed. More specifically, and as set forth below, in order to facilitate the closing of fact discovery on September 30, Plaintiffs respectfully seek an order clarifying that the parties will be permitted to depose before trial: (1) any of the four ACN co-founders whom Defendants intend to call to testify at trial but whose deposition was previously denied; and (2) any other witness that a party seeks to call at trial but who was not previously identified in the parties' initial Rule 26(a) disclosures or previously deposed in this action.

I. ACN Co-Founders

As the Court is aware, Plaintiffs previously served deposition subpoenas on four senior ACN executives and co-founders, namely Robert Stevanovski, Greg Provenzano, and Mike and Tony Cupisz. *See* ECF 397 at 3 n.4. On May 18, 2022, the Court, construing Plaintiffs' service of such subpoenas and ACN's resistance to them as effectively a motion by Plaintiffs to compel such depositions, denied that motion without prejudice to its renewal following the Rule 30(b)(6) deposition of ACN and a meet-and-confer process. *See* ECF 424 at ¶ 5; ECF 427 at 64:22-25.

The ACN Rule 30(b)(6) deposition reaffirmed that the four ACN co-founders—and Mr. Stevanovski especially—are fact witnesses with relevant and unique knowledge. Each of them played a role in shaping and executing the Trump-ACN relationship, including in various in-person meetings, phone calls, and email communications, such as [REDACTED]

[REDACTED] ACN004313 (e-mail from Greg Provenzano, attached hereto as Exhibit A);¹ *see also, e.g.,* ACN 30(b)(6) Tr. at 252:7-12 (testifying that ACN's first appearance on *The Celebrity*

¹ Consistent with the Court's Individual Rules, Plaintiffs have submitted this exemplar exhibit but have otherwise not attached voluminous documents to this submission. Of course, Plaintiffs are prepared to submit any supporting evidence or documentation that the Court may direct.